

By

W. Donald

H.J.R. No 30

A JOINT RESOLUTION

proposing an amendment to Section 1-a,  
Article V, Constitution of the State of  
Texas, relating to the removal, retirement,  
or censure of Justices, Judges, and Justices  
of the Peace under prescribed circumstances.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. That Subsections (5), (6), (7), (8), (9), (11),  
(12), and (13), Section 1-a, Article V, Constitution of the State  
of Texas, be amended to read as follows:

"(5) The Commission may hold its meetings, hearings and  
other proceedings at such times and places as it shall determine  
but shall meet at Austin at least once each year. It shall  
annually select one of its members as Chairman. A quorum shall  
consist of five (5) members. Proceedings shall be by majority vote  
of those present, except that recommendations for retirement,  
censure, or removal of any person holding an office named in Para-  
graph A of Subsection (6) of this Section shall be by affirmative  
vote of at least five (5) members.

"(6) A. Any Justice or Judge of the Appellate Courts and  
District and Criminal District Courts, any County Judge, and any  
Judge of a County Court at Law, a Court of Domestic Relations, a  
Juvenile Court, a Probate Court, or a Corporation or Municipal  
Court, and any Justice of the Peace, and any Judge or presiding  
officer of any special court created by the Legislature as provided  
in Section 1, Article V, of this Constitution, may, subject to the  
other provisions hereof, be removed from office for willful or  
persistent conduct, which is clearly inconsistent with the proper  
performance of his said duties or casts public discredit upon the  
judiciary or administration of justice; or any person holding such  
office may be censured, in lieu of removal from office, under  
procedures provided for by the Legislature.

"B. Any person holding an office named in Paragraph A of  
this subsection who is eligible for retirement benefits under the  
laws of this state providing for judicial retirement may be  
involuntarily retired, and any person holding an office named in  
that paragraph who is not eligible for retirement benefits under  
such laws may be removed from office, for disability seriously  
interfering with the performance of his duties, which is, or is  
likely to become, permanent in nature.

"(7) The Commission shall keep itself informed as fully as  
may be of circumstances relating to the misconduct or disability  
of particular persons holding an office named in Paragraph A of  
Subsection (6) of this Section, receive complaints or reports,  
formal or informal, from any source in this behalf and make such

1 preliminary investigations as it may determine. Its orders for the  
2 attendance or testimony of witnesses or for the production of doc-  
3 uments at any hearing or investigation shall be enforceable by  
4 contempt proceedings in the District Court.

5 "(8) After such investigation as it deems necessary, the  
6 Commission may in its discretion issue a private reprimand, or if  
7 the Commission determines that the situation merits such action,  
8 it may order a hearing to be held before it concerning the  
9 removal, or retirement of a person holding an office named in  
10 Paragraph A of Subsection (6) of this Section, or it may in its  
11 discretion request the Supreme Court to appoint an active or  
12 retired District Judge or Justice of a Court of Civil Appeals as  
13 a Master to hear and take evidence in any such matter, and to  
14 report thereon to the Commission. If, after hearing, or after  
15 considering the record and report of a Master, the Commission  
16 finds good cause therefor, it shall issue an order of public  
17 censure or it shall recommend to the Supreme Court the removal, or  
18 retirement, as the case may be, of the person in question holding  
19 an office named in Paragraph A of Subsection (6) of this Section  
20 and shall thereupon file with the Clerk of the Supreme Court the  
21 entire record before the Commission.

22 "(9) The Supreme Court shall review the record of the pro-  
23 ceedings on the law and facts and in its discretion may, for good  
24 cause shown, permit the introduction of additional evidence and  
25 shall order public censure, retirement or removal, as it finds just  
26 and proper, or wholly reject the recommendation. Upon an order for  
27 involuntary retirement for disability or an order for removal, the  
28 office in question shall become vacant. The rights of an incumbent  
29 so retired to retirement benefits shall be the same as if his  
30 retirement had been voluntary."

31 "(11) The Supreme Court shall by rule provide for the  
32 procedure before the Commission, Masters and the Supreme Court.  
33 Such rule shall afford to any person holding an office named in  
34 Paragraph A of Subsection (6) of this Section, against whom a pro-  
35 ceeding is instituted to cause his retirement or removal, due  
36 process of law for the procedure before the Commission, Masters and  
37 the Supreme Court in the same manner that any person whose property  
38 rights are in jeopardy in an adjudicatory proceeding is entitled to  
39 due process of law, regardless of whether or not the interest of  
40 the person holding an office named in Paragraph A of Subsection (6)  
41 of this Section in remaining in active status is considered to be a  
42 right or a privilege. Due process shall include the right to  
43 notice, counsel, hearing, confrontation of his accusers, and all  
44 such other incidents of due process as are ordinarily available in  
45 proceedings whether or not misfeasance is charged, upon proof of  
46 which a penalty may be imposed.

47 "(12) No person holding an office named in Paragraph A of  
48 Subsection (6) of this Section shall sit as a member of the Commis-  
49 sion or Supreme Court in any proceeding involving his own retire-  
50 ment or removal.

51 "(13) This Section 1-a is alternative to and cumulative of,  
52 the methods of removal of persons holding an office named in  
53 Paragraph A of Subsection (6) of this Section provided elsewhere in  
54 this Constitution."

1        Sec. 2. The foregoing constitutional amendment shall be  
2 submitted to a vote of the qualified electors of this state at an  
3 election to be held on the first Tuesday after the first Monday in  
4 ~~November, 1970~~, at which election the ballots shall be printed to  
5 provide for voting for or against the proposition: "The constitu-  
6 tional amendment relating to the removal, retirement, or censure of  
7 Justices, Judges, and Justices of Peace under prescribed circum-  
8 stances."  
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## BILL ANALYSIS

H.J.R. 30  
Committee on Constitutional Amendments

MCDONALD

### Background information:

Several sessions ago the present section was enacted. It established the State Judicial Qualifications Commission and gave it the power of public action toward removal. Also, the Supreme Court was given the two alternatives of ordering removal or not. Jurisdiction of the two bodies presently extends only to the district level and up.

It is felt now, that this jurisdiction should extend all the way down to justices of the peace, and that the two bodies should be given greater alternatives as possible course of action rather than the harsh methods now prescribed. Thus the Commission is given the power to issue a private reprimand, in addition to being able to seek removal. Also the Supreme Court is given the power to issue a public censure in cases where removal for dereliction of duty might be too harsh.

### Purpose of the resolution:

H.J.R. 30 grants to the state Judicial Qualifications Commission the power of private reprimand; grants to the Supreme Court of Texas power of public censure; and extends the provisions of Art. V Sec. 1a to all judges in the state.

### Section by section analysis:

Section 1: amends Subsections (5), (6), (7), (8), (9), (11), (12), and (13), Sect. 1-a, Art. V; substituting the appropriate language in order to do the above.

Section 2: submits this to a vote in November 1970.

### Summary of Committee hearing:

HJR 30 was reported ~~back~~ back to the House with the recommendation that it do pass and be printed by unanimous vote.

(For favorable and unfavorable reports on bills and resolutions, where no committee amendments are recommended.)

# COMMITTEE REPORT

Date 4-8-69

HON. G. F. (GUS) MUTSCHER

Speaker of the House of Representatives.

Sir:

We, your Committee on CONST. AMEND, to whom was

referred HJR No. 50, have had the same under consideration

and beg to report back with recommendation that it <sup>do</sup> ~~do not~~ pass, and be printed

John Jaeger

Chairman.

(When this form is used for a favorable report on a general bill the words "do not" are marked out. If the bill is a local bill the word "not" should be inserted before the word "printed." When used for an unfavorable report the word "do" is marked out, the comma after "pass" is changed to a period, and the remaining words also marked out.)

When this form is used for a simple or concurrent resolution the comma after "pass" should be changed to a period and the remaining words stricken out because resolutions are printed in the Journal when first introduced.)

DATE: April 1, 1969

To the Honorable John A. Traeger

Committee on Constitutional Amendments

Ref: HJR 30

Sir:

We, your sub-committee to whom was referred HJR 30, have had the same under consideration and beg to report back with the recommendation that it do not pass ~~(as amended)~~ and be ~~not~~ printed. ~~(Committee)~~ ~~substitute is to be printed in lieu of the original bill~~

Respectfully submitted,

Joe Batcliff  
Joe Batcliff, Chm.

Rayford Price  
Rayford Price

Bob L. Thomas  
Bob L. Thomas

①  
Floor Amendment ~~E~~

By: McDonald

Amend H. J. R. 30 by deleting  
the word and figure "November, 1970",  
appearing in Sec. 2, on line 4, page  
3 of the printed Resolution, and substitute  
therefor the following: "August, 1969."

APR 15 1969

DATE \_\_\_\_\_

READ AND ADOPTED

Dorothy Hallman  
CHIEF CLERK  
HOUSE OF REPRESENTATIVES

20 -

OK  
4.15.69

By: McDonald

H.J.R. No. 30

HOUSE JOINT RESOLUTION

proposing an amendment to Section 1-a, Article V, Constitution of the State of Texas, relating to the removal, retirement, or censure of Justices, Judges, and Justices of the Peace under prescribed circumstances. \_\_\_\_\_

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. That Subsections (5), (6), (7), (8), (9), (11), (12), and (13), Section 1-a, Article V, Constitution of the State of Texas, be amended to read as follows: \_\_\_\_\_

"(5) The Commission may hold its meetings, hearings and other proceedings at such times and places as it shall determine but shall meet at Austin at least once each year. It shall annually select one of its members as Chairman. A quorum shall consist of five (5) members. Proceedings shall be by majority vote of those present, except that recommendations for retirement, censure, or removal of any person holding an office named in Paragraph A of Subsection (6) of this Section shall be by affirmative vote of at least five (5) members. \_\_\_\_\_

"(6) A. Any Justice or Judge of the Appellate Courts and District and Criminal District Courts, any County Judge, and any Judge of a County Court at Law, a Court of Domestic Relations, a Juvenile Court, a Probate Court, or a Corporation or Municipal Court, and any Justice of the Peace, and any Judge or presiding officer of any special court created by the Legislature as provided in Section 1, Article V, of this Constitution, may, subject to the \_\_\_\_\_



other provisions hereof, be removed from office for willful or persistent conduct, which is clearly inconsistent with the proper performance of his said duties or casts public discredit upon the judiciary or administration of justice; or any person holding such office may be censured, in lieu of removal from office, under procedures provided for by the Legislature.\_\_\_\_\_

"B. Any person holding an office named in Paragraph A of this subsection who is eligible for retirement benefits under the laws of this state providing for judicial retirement may be involuntarily retired, and any person holding an office named in that paragraph who is not eligible for retirement benefits under such laws may be removed from office, for disability seriously interfering with the performance of his duties, which is, or is likely to become, permanent in nature.\_\_\_\_\_

"(7) The Commission shall keep itself informed as fully as may be of circumstances relating to the misconduct or disability of particular persons holding an office named in Paragraph A of Subsection (6) of this Section, receive complaints or reports, formal or informal, from any source in this behalf and make such preliminary investigations as it may determine. Its orders for the attendance or testimony of witnesses or for the production of documents at any hearing or investigation shall be enforceable by contempt proceedings in the District Court.\_\_\_\_\_

"(8) After such investigation as it deems necessary, the Commission may in its discretion issue a private reprimand, or if the Commission determines that the situation merits such action,\_\_\_\_\_

it may order a hearing to be held before it concerning the removal, or retirement of a person holding an office named in Paragraph A of Subsection (6) of this Section, or it may in its discretion request the Supreme Court to appoint an active or retired District Judge or Justice of a Court of Civil Appeals as a Master to hear and take evidence in any such matter, and to report thereon to the Commission. If, after hearing, or after considering the record and report of a Master, the Commission finds good cause therefor, it shall issue an order of public censure or it shall recommend to the Supreme Court the removal, or retirement, as the case may be, of the person in question holding an office named in Paragraph A of Subsection (6) of this Section and shall thereupon file with the Clerk of the Supreme Court the entire record before the Commission.\_\_\_\_\_

"(9) The Supreme Court shall review the record of the proceedings on the law and facts and in its discretion may, for good cause shown, permit the introduction of additional evidence and shall order public censure, retirement or removal, as it finds just and proper, or wholly reject the recommendation. Upon an order for involuntary retirement for disability or an order for removal, the office in question shall become vacant. The rights of an incumbent so retired to retirement benefits shall be the same as if his retirement had been voluntary."\_\_\_\_\_

"(11) The Supreme Court shall by rule provide for the procedure before the Commission, Masters and the Supreme Court.\_\_\_\_\_

Such rule shall afford to any person holding an office named in Paragraph A of Subsection (6) of this Section, against whom a proceeding is instituted to cause his retirement or removal, due process of law for the procedure before the Commission, Masters and the Supreme Court in the same manner that any person whose property rights are in jeopardy in an adjudicatory proceeding is entitled to due process of law, regardless of whether or not the interest of the person holding an office named in Paragraph A of Subsection (6) of this Section in remaining in active status is considered to be a right or a privilege. Due process shall include the right to notice, counsel, hearing, confrontation of his accusers, and all such other incidents of due process as are ordinarily available in proceedings whether or not misfeasance is charged, upon proof of which a penalty may be imposed.\_\_\_\_\_

"(12) No person holding an office named in Paragraph A of Subsection (6) of this Section shall sit as a member of the Commission or Supreme Court in any proceeding involving his own retirement or removal.\_\_\_\_\_

"(13) This Section 1-a is alternative to and cumulative of, the methods of removal of persons holding an office named in Paragraph A of Subsection (6) of this Section provided elsewhere in this Constitution."\_\_\_\_\_

Sec. 2. The foregoing constitutional amendment shall be submitted to a vote of the qualified electors of this state at an\_\_\_\_\_

H.J.R. No. 30

election to be held on the first Tuesday after the first Monday in ~~November, 1970,~~  
~~August, 1969,~~ at which election the ballots shall be printed to  
provide for voting for or against the proposition: "The constitu-  
tional amendment relating to the removal, retirement, or censure of  
Justices, Judges, and Justices of Peace under prescribed circum-  
stances."

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Austin, Texas

April 15, 1969

Hon. Ben Barnes  
President of the Senate

Sir:

We, your Committee on CONSTITUTIONAL AMENDMENTS,  
to which was referred H.J.R. B. No. 30, have had the same  
under consideration, and I am instructed to report it back to  
the Senate with the recommendation that it do \_\_\_\_\_  
pass \_\_\_\_\_ and be \_\_\_\_\_ printed.

Chitt  
Chairman

CAS

Amend HJR 30 by striking the words "August, 1969" on line 45, page 2 thereof and substituting the words "November, 1970" therefor.

*Balt*

**ADOPTED**

APR 23 1969

*Charles Schwab*

SECRETARY OF SENATE



*JK*  
4-28-69

## ENROLLED

H.J.R. No. 30

### HOUSE JOINT RESOLUTION

proposing an amendment to Section 1-a, Article V, Constitution of the State of Texas, relating to the removal, retirement, or censure of Justices, Judges, and Justices of the Peace under prescribed circumstances.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. That Subsections (5), (6), (7), (8), (9), (11), (12), and (13), Section 1-a, Article V, Constitution of the State of Texas, be amended to read as follows:

"(5) The Commission may hold its meetings, hearings and other proceedings at such times and places as it shall determine but shall meet at Austin at least once each year. It shall annually select one of its members as Chairman. A quorum shall consist of five (5) members. Proceedings shall be by majority vote of those present, except that recommendations for retirement, censure, or removal of any person holding an office named in Paragraph A of Subsection (6) of this Section shall be by affirmative vote of at least five (5) members.

"(6) A. Any Justice or Judge of the Appellate Courts and District and Criminal District Courts, any County Judge, and any Judge of a County Court at Law, a Court of Domestic Relations, a Juvenile Court, a Probate Court, or a Corporation or Municipal Court, and any Justice of the Peace, and any Judge or presiding officer of any special court created by the Legislature as provided in Section 1, Article V, of this Constitution, may, subject to the

other provisions hereof, be removed from office for willful or persistent conduct, which is clearly inconsistent with the proper performance of his said duties or casts public discredit upon the judiciary or administration of justice; or any person holding such office may be censured, in lieu of removal from office, under procedures provided for by the Legislature.

"B. Any person holding an office named in Paragraph A of this subsection who is eligible for retirement benefits under the laws of this state providing for judicial retirement may be involuntarily retired, and any person holding an office named in that paragraph who is not eligible for retirement benefits under such laws may be removed from office, for disability seriously interfering with the performance of his duties, which is, or is likely to become, permanent in nature.

"(7) The Commission shall keep itself informed as fully as may be of circumstances relating to the misconduct or disability of particular persons holding an office named in Paragraph A of Subsection (6) of this Section, receive complaints or reports, formal or informal, from any source in this behalf and make such preliminary investigations as it may determine. Its orders for the attendance or testimony of witnesses or for the production of documents at any hearing or investigation shall be enforceable by contempt proceedings in the District Court.

"(8) After such investigation as it deems necessary, the Commission may in its discretion issue a private reprimand, or if the Commission determines that the situation merits such action,



it may order a hearing to be held before it concerning the removal, or retirement of a person holding an office named in Paragraph A of Subsection (6) of this Section, or it may in its discretion request the Supreme Court to appoint an active or retired District Judge or Justice of a Court of Civil Appeals as a Master to hear and take evidence in any such matter, and to report thereon to the Commission. If, after hearing, or after considering the record and report of a Master, the Commission finds good cause therefor, it shall issue an order of public censure or it shall recommend to the Supreme Court the removal, or retirement, as the case may be, of the person in question holding an office named in Paragraph A of Subsection (6) of this Section and shall thereupon file with the Clerk of the Supreme Court the entire record before the Commission.

"(9) The Supreme Court shall review the record of the proceedings on the law and facts and in its discretion may, for good cause shown, permit the introduction of additional evidence and shall order public censure, retirement or removal, as it finds just and proper, or wholly reject the recommendation. Upon an order for involuntary retirement for disability or an order for removal, the office in question shall become vacant. The rights of an incumbent so retired to retirement benefits shall be the same as if his retirement had been voluntary."

"(11) The Supreme Court shall by rule provide for the procedure before the Commission, Masters and the Supreme Court.

Such rule shall afford to any person holding an office named in Paragraph A of Subsection (6) of this Section, against whom a proceeding is instituted to cause his retirement or removal, due process of law for the procedure before the Commission, Masters and the Supreme Court in the same manner that any person whose property rights are in jeopardy in an adjudicatory proceeding is entitled to due process of law, regardless of whether or not the interest of the person holding an office named in Paragraph A of Subsection (6) of this Section in remaining in active status is considered to be a right or a privilege. Due process shall include the right to notice, counsel, hearing, confrontation of his accusers, and all such other incidents of due process as are ordinarily available in proceedings whether or not misfeasance is charged, upon proof of which a penalty may be imposed.

"(12) No person holding an office named in Paragraph A of Subsection (6) of this Section shall sit as a member of the Commission or Supreme Court in any proceeding involving his own retirement or removal.

"(13) This Section 1-a is alternative to and cumulative of, the methods of removal of persons holding an office named in Paragraph A of Subsection (6) of this Section provided elsewhere in this Constitution."

Sec. 2. The foregoing constitutional amendment shall be submitted to a vote of the qualified electors of this state at an

H.J.R. No. 30

election to be held on the first Tuesday after the first Monday in November, 1970, at which election the ballots shall be printed to provide for voting for or against the proposition: "The constitutional amendment relating to the removal, retirement, or censure of Justices, Judges, and Justices of Peace under prescribed circumstances."

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Lieutenant Governor

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Speaker of the House

I hereby certify that H.J.R. No. 30 was adopted by the House on April 15, 1969; and that the House concurred in Senate amendments to H.J.R. No. 30 on April 24, 1969, by the following vote: Yeas 136, Nays 0.

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Chief Clerk of the House

I hereby certify that H.J.R. No. 30 was adopted by the Senate, as amended, on April 23, 1969, by the following vote: Yeas 24, Nays 6.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

5-9-69

Date

Signed

Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE

5:12pm O'CLOCK

MAY 9 1969

\_\_\_\_\_  
Secretary of State

By: McDonald

H.J.R. No. 30

HOUSE JOINT RESOLUTION

proposing an amendment to Section 1-a, Article V, Constitution of the State of Texas, relating to the removal, retirement, or censure of Justices, Judges, and Justices of the Peace under prescribed circumstances.

2-26-69 Filed.

2-27-69 Read first time and referred to Committee on Constitutional Amendments.

4- 8-69 Reported favorably, sent to printer.

4- 9-69 Printed, distributed and referred to Committee on Rules at 9:30 a.m.

4-15-69 Read and adopted, as amended, by the following vote:  
Yeas 138, Nays 0.

Dorothy Hallman  
Chief Clerk, H. of R.

4-15-69 Sent to Engrossing Clerk.

4-15-69 Engrossed.

Orea Buggins  
Engrossing Clerk, H. of R.

APR 15 1969 RETURNED FROM ENGROSSING CLERK SENT TO THE SENATE

(Inside)

APR 15 1969 Received from the House

APR 15 1969 Read, referred to Committee on Constitutional Amendments

APR 15 1969 Reported favorably. \_\_\_\_\_

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

Ordered not printed. \_\_\_\_\_

APR 23 1969 Regular order of business suspended by

(unanimous consent.

(24 yeas, 6 nays.

To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays.

APR 23 1969 Read second time, amended and passed to third reading.

Caption ordered amended to conform to body of bill.

APR 23 1969 Senate and Constitutional 3-Day Rules suspended by vote of 24 yeas, 6 nays to place bill on third reading and final passage.

APR 23 1969 Read third time and passed by (a viva voce vote. (24 yeas, 6 nays.

OTHER ACTION:

APR 17 1969 Consideration postponed until Wednesday, Apr. 23, 1969, following morning call.

Charles Schnabel  
Secretary of the Senate

APR 23 1969

APR 24 1969 Returned to HOUSE

<sup>24</sup>  
APR 23 1969

RETURNED FROM SENATE

Dorothy Hallman

Chief Clerk, House of Representatives

<sup>24</sup>  
APR 23 1969 SENT TO PRINTER

APR 24 1969

ALL NECESSARY RULES SUSPENDED, AND

THE HOUSE CONCURRED IN SENATE AMENDMENTS  
TO HOUSE BILL NO. 30 BY A VOTE OF  
136 AYES, 0 NOES.

Dorothy Hallman

Chief Clerk, House of Representatives

APR 24 1969

MOTION TO RECONSIDER THE VOTE BY WHICH the House concurred in Senate Amendments to H.R. No. 30 WAS ADOPTED / PASSED AND TO TABLE THE MOTION TO RECONSIDER PREVAILED PASSED BY A unrecorded VOTE OF

Dorothy Hallman  
CHIEF CLERK HOUSE OF REPRESENTATIVES

SENT TO ENROLLING CLERK

APR 24 1969

<sup>C</sup>  
H.J.R. No. 30 By McDonald

HOUSE JOINT RESOLUTION

proposing an amendment to  
Section 1-a, Article V, Constitu-  
tion of the State of Texas,  
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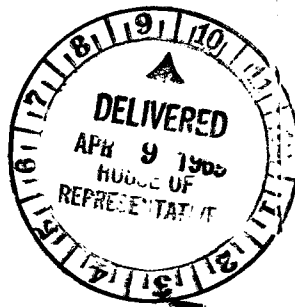
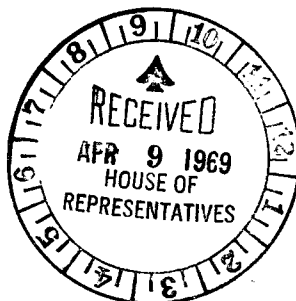
FILED FEB 26 1969

READ 1st TIME  
AND REFERRED TO COMMITTEE ON  
Constitutional Amendments

Dorothy Hallman

Chief Clerk, House of Representatives

APR 8 1969 REPORTED FAVORABLY SENT TO PRINTER



DATE APR 15 1969  
amended  
READ AND ADOPTED By vote of 138 ayes, 0 nays  
Dorothy Hallman  
CHIEF CLERK  
HOUSE OF REPRESENTATIVES  
APR 15 1969  
MOTION TO RECONSIDER THE VOTE BY  
WHICH H.J.R. # 30 WAS  
ADOPTED / ~~AND~~ AND TO TABLE THE MOTION TO RECON-  
SIDER PREVAILED ~~BY~~ BY A non-record VOTE  
Dorothy Hallman  
CHIEF CLERK HOUSE OF REPRESENTATIVES

APR 15 1969 SENT TO ENGROSSING CLERK

PRINTED, DISTRIBUTED AND  
REFERRED TO COMMITTEE ON  
RULES 9:30 A M. APR 9 1969  
(Time) (Date)